

CLEMENT SETH ROBERTS (STATE BAR NO. 209203)
croberts@orrick.com
BAS DE BLANK (STATE BAR NO. 191487)
basdeblank@orrick.com
ALYSSA CARIDIS (STATE BAR NO. 260103)
acaridis@orrick.com
EVAN D. BREWER (STATE BAR NO. 304411)
ebrewer@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: +1 415 773 5700
Facsimile: +1 415 773 5759

SEAN M. SULLIVAN (*pro hac vice*)
sullivan@ls3ip.com
MICHAEL P. BOYEA (*pro hac vice*)
boyea@ls3ip.com
COLE B. RICHTER (*pro hac vice*)
richter@ls3ip.com
LEE SULLIVAN SHEA & SMITH LLP
656 W Randolph St., Floor 5W
Chicago, IL 60661
Telephone: +1 312 754 0002
Facsimile: +1 312 754 0003

Attorneys for Sonos, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN FRANCISCO DIVISION

GOOGLE LLC,
Plaintiff and Counter-defendant,
v.
SONOS, INC.,
Defendant and Counter-claimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**SONOS, INC.'S UNOPPOSED MOTION
FOR ADMINISTRATIVE RELIEF TO
FILE A REPLY IN SUPPORT OF ITS
OPPOSED MOTION REQUESTING
PATENT SHOWDOWN TRIAL DATE
TO BE MOVED**

Pursuant to Civil Local Rule 7-11, Sonos, Inc. (“Sonos”) hereby respectfully moves this Court for an order granting leave to file a reply brief in support of Sonos’s Opposed Motion Requesting Patent Showdown Trial Date to be Moved, Dkt. 246. Google does not oppose Sonos’s administrative motion for leave to file a reply to inform the Court that Sonos and its experts are available for trial on October 3-7, 2022. *See*, Declaration of Alyssa Caridis filed concurrently herewith, ¶¶ 5-8.

Sonos’s Opposed Motion Requesting Patent Showdown Trial Date to be Moved was filed as a Motion to Change Time per Local Rule 6-3. Dkt. 246. Local Rule 6-3 does not contemplate a reply. A reply is appropriate here because Google’s opposition, Dkt. 257, raised a number of new issues that Google did not articulate during the meet and confer process leading up to Sonos’s motion. Sonos wishes to address (1) that both parties and their experts are available for an October 3-7 showdown trial and (2) that attempting to address the experts’ conflicts with the current trial date by adding days to the current trial would be prejudicial. A reply brief will assist the Court in resolution of Sonos’s motion.

For the foregoing reasons, Sonos respectfully requests that this Court grant it leave to file the reply attached hereto as Attachment 1.

Dated: May 17, 2022

By: /s/ Alyssa Caridis

Clement Seth Roberts
Bas de Blank
Alyssa Caridis
Evan D. Brewer

ORRICK, HERRINGTON & SUTCLIFFE LLP

George I. Lee (*pro hac vice*)
Sean M. Sullivan (*pro hac vice*)
Rory P. Shea (*pro hac vice*)
J. Dan Smith III (*pro hac vice*)
Michael P. Boyea (*pro hac vice*)
Cole Richter (*pro hac vice*)
Jae Y. Pak (*pro hac vice*)
Matthew J. Sampson (*pro hac vice*)
David Grosby (*pro hac vice*)

LEE SULLIVAN SHEA & SMITH LLP

Attorneys for Sonos, Inc.

ATTACHMENT 1

CLEMENT SETH ROBERTS (Bar No. 209203)
croberts@orrick.com
BAS DE BLANK (Bar No. 191487)
basdeblank@orrick.com
ALYSSA CARIDIS (Bar No. 260103)
acaridis@orrick.com
EVAN D. BREWER (Bar No. 304411)
ebrewer@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: (415) 773-5700
Facsimile: (415) 773-5759

GEORGE I. LEE (*pro hac vice*)
lee@ls3ip.com
SEAN M. SULLIVAN (*pro hac vice*)
sullivan@ls3ip.com
RORY P. SHEA (*pro hac vice*)
shea@ls3ip.com
J. DAN SMITH (*pro hac vice*)
smith@ls3ip.com
MICHAEL P. BOYEA (*pro hac vice*)
boyea@ls3ip.com
COLE RICHTER (*pro hac vice*)
richter@ls3ip.com
LEE SULLIVAN SHEA & SMITH LLP
656 W Randolph St., Floor 5W
Chicago, IL 60661
Telephone: (312) 754-0002
Facsimile: (312) 754-0003

Attorneys for Sonos, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GOOGLE LLC,

Plaintiff and Counterdefendant,

v.

SONOS, INC.,

Defendant and Counterclaimant

Case No. 3:20-cv-06754-WHA
Related Case No. 3:21-cv-07559-WHA

**REPLY IN SUPPORT OF OPPOSED
MOTION REQUESTING PATENT
SHOWDOWN TRIAL DATE TO BE
MOVED**

1 Sonos, Inc. hereby files this reply in further support of its Opposed Motion Requesting
2 Patent Showdown Trial Date To Be Moved, Dkt. 246 (“Motion”). Pursuant to Northern District of
3 California Local Rule 6-3, Sonos filed the Motion requesting that the July 18, 2022 patent
4 showdown trial date be moved to another date convenient for the Court and the parties’ retained
5 experts. Google opposed the Motion, Dkt. 257 (“Opposition”).

6 Google’s Opposition raised a number of new issues that Google did not articulate during
7 the meet and confer process leading up to Sonos’s Motion which are addressed below.

8 1. The Court should grant Sonos’s motion and move the showdown trial to October 3-7,
9 2022. Sonos and its experts are available for an October 3-7, 2022 showdown trial, apparently
10 the only period in 2022 in which all of Google’s experts and counsel are available. Dkt. 257 at 3.
11 Sonos notes that Google provided its conflicts for the first time in its opposition and never
12 proposed October 3-7, 2022 as a possible date during the parties’ meet and confer, which
13 prevented the parties from jointly proposing a new date.

14 2. As Sonos explained, Sonos’s technical expert for the ’885 patent has a travel conflict
15 with the current trial date. Dkt. 246. Dr. Almeroth is scheduled to be out of the country from
16 July 20 through August 10, 2022. *Id.* Google does not dispute “that it is not ‘reasonable to
17 expect that the jury can hear preliminary instructions from the Court, opening statements from
18 both parties, Dr. Almeroth’s infringement testimony, all of Google’s invalidity testimony and
19 evidence, and Dr. Almeroth’s responsive validity testimony in only two trial days.’” Dkt. 257 at
20 1 (quoting Dkt. 246 at 2).

21 Sonos’s motion also explained if Sonos were required to retain a new technical expert,
22 that would prejudice Sonos and would likely necessitate delaying the showdown trial for the new
23 expert. Dkt. 246 at 2-3. Google does not dispute that either. Instead, Google suggests that Dr.
24 Almeroth can still testify if he “adjust[s] his travel schedule.” Dkt. 257 at 1. Dr. Almeroth is
25 taking a long-planned trip to Africa and cannot adjust his itinerary, even by a day or two, at this
26 point.

Next, Google proposes that the Court add additional days to the trial. Dkt. 257 at 2. Sonos does not agree that Dr. Almeroth's travel conflict—and Google's expert Dr. Schonfeld's trial conflict—can be accommodated by adding trial days.

Adding trial days would be prejudicial to both parties and the Court. The court already set a pretrial conference for Wednesday July 13 and jury selection for Thursday July 14. To add trial days before trial, the entire schedule would need to shift forward. Compressing the pretrial schedule would prejudice the Court's ability to carefully consider the parties' summary judgment motions (set for hearing June 9). It would also prejudice the parties' ability to complete all of their expert reports and pretrial filings. And adding trial days to the end of trial would not solve Dr. Almeroth's conflict.

CONCLUSION

Accordingly, Sonos respectfully requests that the Court reset the showdown trial to October 3-7, when both parties and their chosen experts are available. If the Court does not move the trial date, Sonos's expert Dr. Almeroth may be unable to testify as to infringement and invalidity of the '885 patent and Sonos will be greatly prejudiced.

Dated: May 17, 2022

By: /s/ Alyssa Caridis

Clement Seth Roberts
Bas de Blank
Alyssa Caridis
Evan D. Brewer

ORRICK, HERRINGTON & SUTCLIFFE LLP

George I. Lee (*pro hac vice*)
Sean M. Sullivan (*pro hac vice*)
Rory P. Shea (*pro hac vice*)
J. Dan Smith III (*pro hac vice*)
Michael P. Boyea (*pro hac vice*)
Cole Richter (*pro hac vice*)
Jae Y. Pak (*pro hac vice*)
Matthew J. Sampson (*pro hac vice*)
David Grosby (*pro hac vice*)

LEE SULLIVAN SHEA & SMITH LLP

Attorneys for Sonos, Inc.